APPEAL NO. 033125
FILED JANUARY 12, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on November 3, 2003. The hearing officer determined that the appellant's (claimant) _____, compensable head, neck, and right ring finger injuries do not extend to or include the thoracic spine, lumbar spine, or bilateral cubital tunnel syndrome. The claimant appeals this determination and asserts that the hearing officer erred in admitting the report and testimony of Dr. S. The respondent (carrier) asserts that the claimant's appeal was not timely filed and should not be given consideration. Alternatively, the carrier urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

Pursuant to Section 410.202(a), for an appeal to be considered timely, it must be filed or mailed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). Texas Workers' Compensation Commission (Commission) records indicate that the hearing officer's decision was mailed on November 7, 2003, and the claimant states in her appeal that she received it on November 10, 2003. Fifteen days from the claimant's date of receipt of the decision was December 4, 2003. The Commission received the claimant's appeal via facsimile transmission on December 2, 2003, and therefore, it was timely filed.

The claimant asserts that the hearing officer erred in admitting the report and testimony of Dr. S. However, the record reflects that no objection was made to the admission of Dr. S's report and that with regard to his testimony, the claimant only objected to Dr. S testifying about matters relating to maximum medical improvement (MMI) and impairment rating (IR). The hearing officer ruled in the claimant's favor and restricted Dr. S from testifying about MMI and IR. Because the claimant made no objection at the hearing to the admission of Dr. S's report and the hearing officer ruled in the claimant's favor on the limited objection made regarding Dr. S's testimony, we perceive no error in the admission of Dr. S's report and testimony.

Extent of injury is a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). It was the hearing officer's prerogative to believe all, part, or none of the testimony of any witness,

including that of the claimant. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer was not persuaded by the evidence that the claimant met her burden of proof on the extent-of-injury issue. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **SENTRY INSURANCE, A MUTUAL COMPANY** and the name and address of its registered agent for service of process is

TREVA DURHAM
1000 HERITAGE CENTER CIRCLE
ROUND ROCK, TEXAS 78664.

_____
Chris Cowan
Appeals Judge

CONCUR:

_____
Margaret L. Turner
Appeals Judge

_____
Edward Vilano
Appeals Judge